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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,001	08/21/2003	Jerome Thomas Fink	3286W	6124

7590 03/18/2004

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EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/645,001	Applicant(s) FINK ET AL.	
	Examiner Alexandra K Pechhold	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10 is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☒ Claim(s) 2 and 4-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Bartusek et al (US 4,700,785).**

Regarding claim 1, Bartusek discloses in combination with a mounting arm, seen as frame (12), of a soil leveling attachment:

a rearwardly extending carrier arm, seen as shank (52), having proximal and distal end portions, said distal end portion being provided with a leveling device for engagement with the ground, seen as tool (18),

a pivot, seen as pivot (54) in Fig. 1, mounting said proximal end portion of said carrier arm to said mounting arm for upward and downward pivotal movement of the carrier arm,

a selectively operable connecting link on said mounting arm, seen as side brackets (34), having a fixed setting and a released, floating setting in which the connecting link is movable, evidenced in Bartusek as the application of pin (112) in an aperture (110) or the removal of pin (112) from an aperture,

a spring member, seen as spring (100), acting between said connecting link and said carrier arm to bias said carrier arm toward a lower position when said connecting

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link is at its fixed setting, whereby said spring member applies a downward force on said leveling device, as Bartusek recites in claim 1,

means for releasing said connecting link from said fixed setting to permit said connecting link to float in response to upward movement of said carrier arm, this means being disclosed by Bartusek as pin (112) in apertures (110), so that removal of the pin (112) will cause the brackets (34) to float in response to upward movement of shank (52),

whereby said leveling device can move across the ground free of downward force from said spring member, which would inherently be achieved by removal of pin (112) from aperture (110) in Bartusek.

Regarding claim 3, the spring (100) of Bartusek can be biased toward an extended position, that is, if the spring is not entirely compressed but more “loosened” or stretched, and therefore movable between the extended position and a compressed position when it is resecured by pin (112).

Allowable Subject Matter

3. Claims 2 and 4-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claims 8-10 are allowed.

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

AKP
3/12/04